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FEB 20 2007

In re Patent Application of:	)	
FLICK	)	Examiner: M. BROOKS
Serial No. 10/085,403	)	Art Unit: 3629
Filing Date: FEBRUARY 28, 2002	)	Attorney Docket No. 58122
For: METHOD AND SYSTEM OF PROVIDING	)	
A CUSTOMER-SELECTED REMOTE	)	
CONTROL FEATURE PACKAGE IN A	)	
VEHICLE	)	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Responsive to the final Office Action of December 21, 2006,  
and in connection with the Notice of Appeal filed concurrently  
herewith, please consider the remarks set out below.

REMARKS

Applicant thanks the Examiner for the careful and thorough  
examination of the present application, and for extending all  
courtesies during telephonic interviews held on February 6th and  
12th, 2007. The arguments presented during the interviews are  
detailed below. Favorable reconsideration is respectfully  
requested.

I. Claims 3, 4, 6, 8, And 9 Are Definite

The Examiner rejected Claims 3, 4, 6, 8, and 9 over 35  
U.S.C. §112 ¶2, contending they were indefinite. More

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specifically, the Examiner contended that dependent Claims 3, 4, and 9 were indefinite since "installing" is recited before "negotiating" in independent Claim 1. During the interviews, the Examiner withdrew the prior contention that "the vehicle dealer", as recited in Claim 9, lacked antecedent basis.

Applicant submits that any recited order of steps in a claimed method does not ordinarily imply any chronological order within the process unless expressly claimed. (*Interactive Gift Exp., Inc. v. CompuServe, Inc.*, 256 F.3d 1323 (Fed. Cir. 2001)). Regarding independent Claim 1, Applicant submits that although "accepting" occurs after "offering", and that "wirelessly enabling" occurs after "accepting", the steps of "installing" and "negotiating" imply no necessary order. Indeed, the Specification of the present application expressly supports the interchangeable order of the "negotiating" and "installing" steps at page 8, lines 29-32.

Applicant submits that Claims 3 and 4 simply recite the two alternative order arrangements possible i.e. Claim 3 recites "installing" before "negotiating", and Claim 4 recites "installing" after "negotiating". Therefore, dependent Claims 3, 4, and 9 comply with 35 U.S.C. §112 ¶2 and are definite.

The Examiner contended that "further comprising sharing revenue between the different entities and based on the negotiated price for the customer-selected remote control feature package", as recited in Claim 6, was indefinite because of the

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"and." Applicant submits that this claim recitation is definite with or without the word "and." The present application supports this claim recitation at page 10, line 29 through page 11, line 15.

The Examiner additionally contended that "providing" and "wirelessly enabling" could not be performed by different entities, therefore rendering Claim 8 indefinite. Applicant submits that Claim 8 is dependent from Claim 7, and wherein the providing is "providing the universal remote control device" and not "providing a customer-selected remote control feature package" as found in the preamble of Claim 1.

## II. The Claims Are Patentable

The Examiner rejected independent Claims 1, 16, and 27 over the Treyz et al. patent. Treyz et al. discloses an automobile personal computer capable of monitoring and controlling certain local vehicle peripherals, such as an LCD display, an CD drive, a fingerprint identification reader, a digital camera, and a GPS receiver. (Col. 13, lines 52-67 & Col. 15, lines 11-53). Treyz et al. discloses wireless communication circuitry, (Col. 14, lines 57-58), and the ability to modify settings of the automobile personal computer from a remote location, but not peripherals of the automobile personal computer. (Col. 20, lines 51-54). Further, Treyz et al. discloses the ability to remotely subscribe to digital audio satellite radio services, (Col. 22,

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lines 20-34), and the ability to remotely purchase products separate from the car, (Col. 57, line 60 : Col. 58, line 10). Treyz et al. also teaches the user engaging remote control features of the car in routine fashion, (Figure 44 & Col. 42, lines 26-37), but not the ability to wirelessly enable remote control features of the vehicle.

In contrast, independent Claims 1, 16, and 27 recite wirelessly enabling the customer-selected remote control feature package for the universal remote control device. As noted in dependent Claims 11, 13, 23, 29, and 30, the remote control feature packages may include, for example, a security, remote keyless entry, a remote engine starting, and a GPS receiver. Although Treyz et al. teaches wirelessly enabling satellite radio and a vehicle with remote control features, Treyz et al. does not expressly or inherently disclose wirelessly enabling remote control features as claimed. Accordingly, independent Claims 1, 16, and 27 are patentable over Treyz et al. for this reason alone.

As discussed above, the Treyz et al. patent discloses the ability to use the automobile personal computer to purchase products outside the vehicle for items such as fuel, food, or gas. (Col. 57, lines 2-9). The Treyz et al. patent further discloses the vehicle user having the capability to remotely purchase audiovisual entertainment while in the vehicle. (Col. 23, lines 3-16).

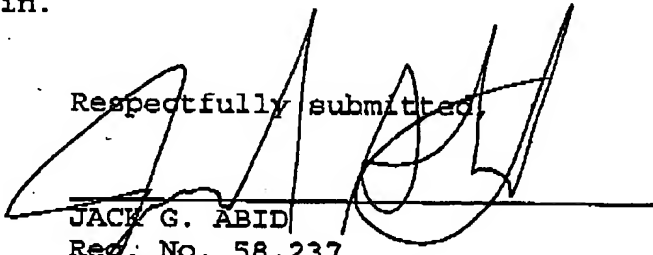
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In contrast, the claimed invention includes, as recited in independent Claims 1 and 16, negotiating sale or lease of the vehicle with the customer. This is simply not found in the Treyz et al. patent. Accordingly, independent Claims 1 and 16 are patentable over Treyz et al. for this reason alone.

Independent Claims 1, 16, and 27 are patentable for the critical deficiencies of the prior art Treyz et al. highlighted above. Their respective dependent claims, which recite yet further distinguishing features, are also patentable, and require no further discussion herein.

Respectfully submitted,



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**CERTIFICATE OF FACSIMILE TRANSMISSION**

I HEREBY CERTIFY that the foregoing correspondence has been forwarded via facsimile number 571-273-8300 to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 this 20<sup>th</sup> day of February, 2007.